

SENATE BILL NO. 487

INTRODUCED BY PEASE

BY REQUEST OF THE SENATE HIGHWAYS AND TRANSPORTATION STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS ON SCHOOL BUS SAFETY; INCREASING THE FOOTAGE REQUIREMENT IN WHICH A MOTOR VEHICLE MUST STOP BEFORE REACHING A SCHOOL BUS WHEN BUS LIGHTS ARE FLASHING; PROVIDING THAT A ~~SCHOOL BUS DRIVER~~ PERSON WHO OBSERVES A VIOLATION MAY PREPARE A VIOLATION REPORT; ~~REQUIRING THAT THE SCHOOL BUS DRIVER OR THE DISTRICT TRANSPORTATION SUPERVISOR DELIVER THE VIOLATION REPORT TO A PEACE OFFICER; AUTHORIZING A PEACE OFFICER TO ISSUE A CITATION OR A NOTICE TO APPEAR TO THE OWNER OF THE MOTOR VEHICLE; PROVIDING CERTAIN DEFENSES FOR THE OWNER OF A MOTOR VEHICLE WHO WAS NOT OPERATING THE VEHICLE AT THE TIME OF VIOLATION;~~ AMENDING SECTIONS 61-8-351 AND 61-8-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-351, MCA, is amended to read:

"61-8-351. Meeting or passing school bus -- ~~vehicle owner~~ OPERATOR liability for violation -- ~~limited defense --~~ penalty. (1) ~~The driver of a vehicle upon a highway or street either inside or outside the corporate limits of any city or town upon meeting or~~ Upon overtaking from either direction ~~any~~ a school bus that has stopped on the highway or street to receive or discharge ~~any~~ school children, a driver of a motor vehicle:

(a) shall stop the motor vehicle not less than ~~40~~ 20 APPROXIMATELY 15 feet before reaching the school bus when there is in operation on the bus a visual flashing red signal as specified in 61-9-402; and

(b) may not proceed until the children have entered the school bus or have alighted and reached the side of the highway or street and until the school bus ceases operation of its visual flashing red signal.

(2) The driver of a motor vehicle shall slow to a rate of speed that is reasonable under the conditions existing at the point of operation and must be prepared to stop when meeting or overtaking from either direction ~~any~~ a school bus that is preparing to stop on the highway or street to receive or discharge school children as indicated by flashing amber lights as specified in 61-9-402.

(3) Each bus used for the transportation of school children must bear upon the front and rear plainly

1 visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height and, in addition,
2 must be equipped with visual signals meeting the requirements of 61-9-402. Amber flashing lights must be
3 actuated by the driver approximately 150 feet in cities and approximately 500 feet in other areas before the bus
4 is stopped to receive or discharge school children on the highway or street. Red lights must be actuated by the
5 driver of the school bus whenever but only whenever the ~~vehicle~~ school bus is stopped on the highway or street
6 whether inside or outside the corporate limits of any city or town to receive or discharge school children.
7 However, a school district board of trustees may, in its discretion, adopt a policy prohibiting the operation of
8 amber or red lights when a school bus is stopped at the school site to receive or discharge school children and
9 the receipt or discharge does not involve street crossing by the children. The lights may not be operated in
10 violation of that policy.

11 (4) The requirements that a driver of a motor vehicle shall stop when a school bus receives or
12 discharges school children under subsection (1) and the requirements that amber and red lights must be
13 actuated by a school bus driver under subsection (3) do not apply when a school bus receives or discharges
14 school children in a designated school bus pullout on a state highway. A designated school bus pullout must
15 meet the following requirements:

16 (a) The pullout must be located on a roadway separated by a physical barrier, such as a guardrail,
17 raised median, drainage ditch, or irrigation ditch.

18 (b) The separate roadway must be designed, constructed, and signed specifically for use by school
19 buses, with sufficient space for safe ingress and egress from the main traveled way.

20 (c) The pullout must be approved by the local affected school district, by a resolution of the district
21 trustees, and by the district superintendent as a mandatory school bus stop for receiving and discharging school
22 children.

23 (5) When a school bus is being operated upon a highway for purposes other than the actual
24 transportation of children either to or from school or for school functions, all markings on the bus indicating
25 "SCHOOL BUS" must be covered or concealed.

26 (6) The driver of a motor vehicle upon a highway with separate roadways need not stop upon meeting
27 or passing a school bus that is on a different roadway or when upon a controlled-access highway and the school
28 bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not
29 permitted to cross the roadway.

30 ~~(7) Whenever a vehicle is established to have been in violation of subsection (1), the person in whose~~

~~name the vehicle is registered is prima facie the driver of the vehicle at the time of the alleged violation.~~

~~(7) (a) A school bus driver~~ PERSON who observes a violation of this section may prepare a written, IN ADDITION TO AN ORAL, report indicating that a violation has occurred. The report may contain information concerning the violation, including:

~~(i) the time and approximate location at which the violation occurred;~~

~~(ii) the license plate number and color of the motor vehicle involved in the violation;~~

~~(iii) identification of the motor vehicle as a passenger car, truck, bus, motorcycle, or other type of motor vehicle; and~~

~~(iv) a description of the person operating the motor vehicle when the violation occurred.~~

~~(b) The school bus driver or district transportation supervisor shall deliver the violation report to a peace officer whose agency has jurisdiction in the county or municipality in which the violation occurred. The peace officer may, upon information and belief, issue and personally serve a citation or notice to appear for the violation to the owner of the motor vehicle. A REPORT UNDER SUBSECTION (7)(A) CONSTITUTES PARTICULARIZED SUSPICION UNDER 46-5-401(1) THAT AN OPERATOR OF THE VEHICLE COMMITTED A VIOLATION OF THIS SECTION.~~

~~—— (8) (a) Except as provided in subsection (8)(b), it is not a defense to a violation of this section that the owner, as defined in 61-1-310, was not operating the motor vehicle at the time of violation.~~

~~—— (b) The following are defenses to a violation of this section:~~

~~—— (i) a report that the motor vehicle was stolen was made to a peace officer before the violation occurred or within a reasonable time after the violation occurred; and~~

~~—— (ii) the owner of the motor vehicle provides the peace officer, upon request, with the name and address of the person operating the motor vehicle at the time of the violation and the named person admits operating the motor vehicle at the time of the violation.; OR~~

~~—— (c) If (iii) IF the motor vehicle is owned by a motor vehicle dealer and at the time of the violation the motor vehicle was being operated by a person demonstrating the vehicle or employed by the dealer and the dealer provides the peace officer, upon request, with the name, address, and driver's license number of the person operating the motor vehicle, then the person operating the motor vehicle and not the dealer must be charged under this section.~~

~~(8)(9)(8)~~ Violation of subsection (1) is punishable upon conviction by a fine of not more than \$500."

Section 2. Section 61-8-715, MCA, is amended to read:

"61-8-715. Reckless driving -- reckless endangerment of highway workers -- penalty. (1) Except

as provided in subsection (2), a person convicted of reckless driving under 61-8-301(1)(a) or (1)(b) or convicted of reckless endangerment of a highway worker under 61-8-301(4) shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, by a fine of not less than \$25 or more than \$300, or both. On a second or subsequent conviction, the person shall be punished by imprisonment for a term of not less than 10 days or more than 6 months, by a fine of not less than \$50 or more than \$500, or both.

(2) A person who is convicted of reckless driving under 61-8-301 and whose offense results in the death or serious bodily injury of another person shall be punished by a fine in an amount not exceeding \$10,000, by incarceration for a term not to exceed 1 year, or both. Section ~~61-8-351(7)~~ 61-8-351(8) does not apply to a prosecution under 61-8-301(1)(b) that is punishable under this subsection."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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